

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**SCOTT A. SMITH,**

**Plaintiff,**

**v.**

**WARDEN, FCI McKEAN, et al.,**

**Defendants.**

**Case No. 1:23-cv-277**

**MEMORANDUM ORDER**

The within *pro se* civil action was commenced on September 28, 2023 by Plaintiff Scott A. Smith, an inmate at the Federal Correctional Institution at McKean (“FCI-McKean”). Plaintiff’s complaint states that a corrections officer identified as Derek LeBlanc, subjected him to a campaign of harassment and abuse which caused Plaintiff to fear for his safety. The complaint also names the Warden of FCI McKean as a Defendant. ECF No. 5. The case has been referred to Chief United States Magistrate Judge Richard A. Lanzillo for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Civil Rule 72.

On March 26, 2024, Defendants filed a motion for dismissal of the complaint or alternatively, a grant of summary judgment. ECF No. 14. Plaintiff was to file a response by May 2, 2024 but did not do so. *See* ECF No. 17. On May 6, 2024, Judge Lanzillo entered an order directing Plaintiff to respond to the motion by May 17, 2024 or to show cause for his delinquency. ECF No. 18. Plaintiff was specifically cautioned that his failure to respond to the show cause order might result in the case being dismissed for his failure to prosecute. *Id.* To this date, no response has been received from Plaintiff, and the docket reflects that both the

Court's briefing and "show cause" orders were returned to the court, with a notation that Plaintiff is no longer housed at FCI-McKean. There is no indication that Plaintiff ever sent the Clerk of Court notice of his change of address.

On October 8, 2024, Judge Lanzillo issued a report and recommendation ("R&R") in which he opined that the case should be dismissed for Plaintiff's failure to prosecute and the Defendants' pending motion should be dismissed as moot. ECF No. 19. After considering the various factors laid out in *Poulis v. State Farm Fire & Casualty Company*, 747 F.2d 863 (3d Cir. 1984), Judge Lanzillo concluded that, on balance, the relevant factors weighed in favor of dismissal as a punitive sanction. The R&R was mailed to Plaintiff at his current address of record at FCI-McKean on October 8, 2024. *Id.*

Objections to the R&R were due on or before October 25, 2024. Unsurprisingly, no objections have been received to date from Plaintiff. Although Plaintiff may not have received the mailed copy of the R&R, it is his obligation to keep the Court apprised of his current mailing address, and he apparently has not done so.

Accordingly, after *de novo* review of the complaint and documents in the case, including the Defendants' pending motion and the Chief Magistrate Judge's Report and Recommendation,

IT IS ORDERED, this 1st day of November, 2024, that the within civil action shall be, and hereby is, DISMISSED with prejudice based on Plaintiff's failure to prosecute his claims.

IT IS FURTHER ORDERED that the Defendants' motion for dismissal of the complaint or alternatively, a grant of summary judgment, ECF No. 14, is DISMISSED as moot.

IT IS FURTHER ORDERED that the Report and Recommendation of the Chief United States Magistrate Judge issued on October 8, 2024, ECF No. [19], is adopted as the Opinion of this Court.

A handwritten signature in black ink, reading "Susan Paradise Baxter". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Susan Paradise Baxter  
United States District Judge